

RESOLUTION 43-2009

AN ORDER ABANDONING A COUNTY STREET IN CLANCY

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Alan R. Smith, Michelle S. Coster, Louis Dumas, Renee Dumas, Randall Lamping and Andrea Lamping on the 16th day of November, 2009. This petition requested the abandonment of a certain Jefferson County street in an unincorporated town or townsite within Jefferson County, Montana, and being a portion of a street within the original townsite of Clancy, Jefferson County, Montana. The description of the subject County street is set forth as follows:

Quartz Street south of Clancy Street as shown on the original plat of Haynes Second Addition to Clancy.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by street petitioned to be closed within Jefferson County and found that said petition described the particular street or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity for and advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. On December 8, 2009, Joe Carter reported that he investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Joe Carter's investigation. The Commission approved the closure of said street; hereinafter described:

Quartz Street south of Clancy Street as shown on the original plat of Haynes Second Addition to Clancy.

The Board found that the granting of the relief sought in the Petition was in the best

interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore, **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Alan R. Smith, Michelle S. Coster, Louis Dumas, Renee Dumas, Randall Lamping and Andrea Lamping is hereby granted subject to the following conditions:

- a) that the Petitioner recognize that no owner shall ever claim or attempt to claim that any portion of said street constitutes a “lot” or “parcel”, distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;
- b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;
- c) that Jefferson County shall retain full utility rights, if any.

2. That the portion of the said Jefferson County street which is abandoned by this Order is more particularly described as:

Quartz Street south of Clancy Street as shown on the original plat of Haynes Second Addition to Clancy.

BE IT FURTHER RESOLVED that upon abandonment the east half of said property will become part of Lot 1 Block 13 of Haynes Second Addition to Clancy and the west half will become part of Lot 13 Block 14 of Haynes Second Addition of Clancy. An access easement of 6 feet on each side of existing center line will be given to Lot 1 of Clancy Hills Subdivision currently owned by Randall and Andrea Lamping.

DATED this 8th day of December, 2009.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER